

Testimony of Rep. Anna Paulina Luna
Member of Congress on behalf of Florida's Thirteenth Congressional District

Committee on Transportation and Infrastructure 2023 Member Day Hearing

Tuesday, April 18, 2023, at 10:00 a.m.

Hello Chairman Graves, Ranking Member Larson, and distinguished Members of the Committee. My name is Anna Paulina Luna and I represent Florida's 13th Congressional district.

I wanted to express my priorities regarding Water Resources Development Act (WRDA) and implementation of past WRDA provisions. My district is home to many pristine beaches along the Gulf of Mexico. It is my utmost priority to ensure beach renourishment continues in my community. That is why I am before you today.

The Army Corps of Engineers is delaying the renourishment of the Sand Key Beach Project in Pinellas County. The initial construction effort for Sand Key was completed in 1993. Successive nourishments in 1999, 2006, 2012 and 2018 have repaired and built up the beach significantly with the shoreline now about 200 feet from the seawall. Renourishment needs to be placed every six years. The next renourishment cycle would need to begin in 2024 to stay on schedule and not risk beach erosion that would degrade the progress made over the last three decades.

However, before the next renourishment may occur, the Army Corps has informed Pinellas County that local officials must obtain perpetual public access easements along the length of the project from 100 percent of property owners regardless of whether sand is being placed on their private property in the next renourishment cycle. For previous nourishments, Pinellas County property owners were allowed to use temporary construction easements to allow the Army Corps to do its work. Army Corps stated that the agency intends to start enforcing this new policy, purportedly from 1996 but not enforced for the past two decades. It is a flawed requirement to require perpetual public easements on private properties that will not have sand placed, and for obvious reasons about half of private property owners have declined to give such an easement. Army Corps is now threatening to cancel the project entirely.

Section 103(d) 1986 Water Resources Development Act (WRDA) requires the local sponsor to pay for sand placed on private property. Army Corps of Engineers new interpretation of this 40-year-old law is that they will not place sand on the public side of beach, which is *seaward* of the erosion control line, unless a perpetual public access easement is acquired from the private property owners on the *landward* side of the erosion control line unless the local sponsor pays 100% of the cost. Army Corps ridiculously maintains this position even when sand is not being placed in front of the private property. The law never specified that easements would be needed for private properties where sand was NOT being placed and/or the project was not affecting those areas yet the Army Corps of Engineers points to this law as its justification for not moving forward with the project. This is a power grab attempt to strip property rights from homeowners

where easements are not needed to complete the next renourishment cycle. The Army Corps of Engineers stated it requires these perpetual easements for “for access and future responses”. It is apparent that Army Corps of Engineers is stretching its interpretation of the law with no legal or statutory authority to do so.

We must rein in the Army Corps of Engineers and direct the agency in WRDA that perpetual public easements are not required for private properties who are not receiving sand during the renourishment cycle. The absence of public easements in perpetuity for private properties must not be a consideration for the Army Corps of Engineers to delay or not perform the project. We need to reiterate to them that publicly owned land seaward of the state’s erosion control line is considered publicly accessible shore for purposes of federal cost sharing for periodic nourishment.

Without renourishment, Pinellas County will be more prone to future hurricanes and flood damage, which will negatively impact the entire county’s economy. Without this scheduled 2024 nourishment, the beach will dissipate and erode, demolishing many habitats to endangered species and threatened wildlife. Specifically, Loggerhead Sea Turtles, Piping Plover Shorebird, West Indian Manatee, Eastern Black Rail, Red Knot, Wood Stork, American Crocodile, Eastern Indigo Snake, Green Sea Turtle, Hawksbill Sea Turtle, and the Leatherback Sea Turtle are federally classified as endangered or threatened species and reside in and/or around the Sand Key region. Without renourishment to preserve the habitats of our endangered species, they will be placed at greater risk. The Army Corps is under an obligation to exercise its authority to further the conservation of endangered and threatened species. In this case, Army Corps action that reimagines the 1986 WRDA statute will devastate such species.

It is my top priority for WRDA 2024 to ensure that Army Corps proceeds as planned with already authorized beach renourishment projects in Florida. While this new Army Corps policy is very personal to me and my constituents in Pinellas County, I’m sure you will hear from my colleagues that this new policy is threatening many other projects throughout Florida. I respectfully request your assistance in correcting the wayward Army Corps of Engineers and ensure that the Sand Key Beach Project goes forward on schedule.

Thank you.